

**Calendar No. 222**

104TH CONGRESS }  
*1st Session*

SENATE

{ REPORT  
104-166

**METROPOLITAN WASHINGTON AIRPORTS ACT  
AMENDMENTS OF 1995**

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**R E P O R T**

OF THE

**COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION**

together with  
**ADDITIONAL VIEWS**

ON

**S. 288**



NOVEMBER 2, 1995.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

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### METROPOLITAN WASHINGTON AIRPORT ACT AMENDMENTS OF 1995

NOVEMBER 2, 1995.—Ordered to be printed

Mr. PRESSLER, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### REPORT

together with

### ADDITIONAL VIEWS

[To accompany S. 288]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 288) “A Bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes”, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

### PURPOSE OF THE BILL

The purpose of S. 288 as reported is to amend the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) by: (1) abolishing the Board of Review of the Metropolitan Washington Airports Authority (MWAA); (2) conveying the sense of the Senate that the MWAA should not provide free parking areas at either Washington National Airport or Washington Dulles International Airport for Members of Congress, other Government officials, or diplomats; and (3) increasing the number of presidentially-appointed members on the MWAA Board of Directors.

### BACKGROUND AND NEEDS

Prior to 1987, Washington National Airport and Washington Dulles International Airport were owned by the federal government and operated by the Federal Aviation Administration (FAA). These

were the only two commercial airports under the federal government's direct operational supervision.

In 1987, supervision over these airports was transferred from the FAA to the MWAA, as authorized by the Metropolitan Washington Airports Authority Act of 1986 (the 1986 Act). The MWAA is an independent regional authority created under an interstate compact between the Commonwealth of Virginia and the District of Columbia. All airport property was transferred to the MWAA under a 50-year lease, with the federal government holding the title to the property. A Board of Directors was established to operate the airports. Under the 1986 Act, the 11 directors are appointed by the Governors of Virginia (5) and Maryland (2), the Mayor of the District of Columbia (3), and the President of the United States (1).

The 1986 Act also created a "Board of Review" composed of Members of Congress with veto authority over decisions of the MWAA Board of Directors. A section was included in the 1986 Act providing that if the Board of Review was ever unable to function by reason of a judicial order, the MWAA could no longer carry out certain specified actions that were required to be submitted to the Board of Review for consideration, such as the adoption of a budget and the issuance of bonds. In short, the 1986 Act provided a non-severable Congressional oversight function. If the Board of Review was declared invalid, the MWAA would have almost no authority to operate.

#### BOARD OF REVIEW FOUND UNCONSTITUTIONAL

In 1991, the Supreme Court ruled the first Board of Review unconstitutional because it had veto power over actions of the MWAA.<sup>1</sup> The Court found that veto power violated the constitutional doctrine of separation of powers.

Following the Supreme Court ruling, Congress amended the 1986 Act in 1991 by eliminating the requirement that only Members of Congress could serve on the Board of Review. That amendment also eliminated the Board of Review's veto authority. Even with the changes of the 1991 amendment, the MWAA Board of Directors was still required to submit the following actions to the Board of Review:

- The adoption of an annual budget and any amendments thereto;

- The authorization for the issuance of bonds and an annual plan for the issuance of bonds and any amendments to such plan;

- The adoption, amendment, or repeal of a regulation;

- The adoption or revision of a master plan;

- The appointment of the chief executive officer;

- The award of a contract (with certain limited exceptions regarding the sale or issuance of bonds) which has been approved by the Board of Directors;

- The approval of terminal design or airport layout or modifications thereto; and

<sup>1</sup> *Metropolitan Washington Airports Authority v. Citizens for the Abatement of Aircraft Noise, Inc.*, 501 U.S. 252 (1991).

The acquisition or disposal of land and the grant of a long-term easement.

As a result of the 1991 amendment, if the Board of Review disagreed with the Board of Directors' proposed actions, the Board of Review could recommend changes. If the Board of Directors did not choose to adopt a recommendation made by the Board of Review, the issue had to be submitted to Congress for a review period of 60 days. If it desired, Congress could enact legislation to block any objectionable actions by the Board of Directors. Further, the Board of Directors was required to respond to all requests made by the Board of Review.

Following the 1991 amendment, the governing statute retained the so-called "drop dead" section which prohibited the MWAA from performing the specific actions listed above if the Board of Review was prevented from operating by judicial order.

#### RECONSTITUTED BOARD OF REVIEW FOUND UNCONSTITUTIONAL

In September 1994, this new Board of Review format was held to be unconstitutional by the U.S. Court of Appeals for the District of Columbia Circuit.<sup>2</sup> On January 23, 1995, the U.S. Supreme Court declined to review the matter and let stand the appellate court ruling.<sup>3</sup> Once again, the judicial branch ruled that the Board of Review violated the constitutional separation of powers doctrine.

The Court of Appeals issued a stay of its ruling until March 31, 1995. Effective April 1, 1995, the MWAA is prohibited from taking those actions, as listed above, that are required to be submitted to the Board of Review. Given that the MWAA currently is in the middle of \$2 billion in construction projects between the two airports, resolution of this issue by Congress became extremely critical.

#### LEGISLATIVE HISTORY

On January 26, 1995, Senator McCain introduced S. 288, which was cosponsored by Senators Warner and Robb. After the bill was referred to the Committee on Commerce, Science, and Transportation, the Aviation Subcommittee held a hearing on March 9, 1995.

On March 28, 1995, the Committee met in open executive session to consider an amendment in the nature of a substitute to S. 288. By voice vote, S. 288 as amended was ordered to be reported, without objection.

#### SUMMARY OF MAJOR PROVISIONS

The bill as reported would abolish the MWAA Board of Review and add two more presidentially appointed members to the MWAA Board of Directors. The bill also conveys the sense of the Senate that the MWAA discontinue free, reserved parking at National and Dulles Airports for Members of Congress, other Government officials, and diplomats.

<sup>2</sup> *Hechinger v. Metropolitan Washington Airports Authority*, 36 F.3d 97 (1994).

<sup>3</sup> *Metropolitan Washington Airports Authority v. Hechinger*, 115 S.Ct. 934 (1995).

## ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 30, 1995.*

Hon. LARRY PRESSLER,  
*Chairman, Committee on Commerce, Science, and Transportation,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 288, a bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on March 28, 1995. If enacted, the bill would terminate the Metropolitan Washington Airports Authority's review board. (The Supreme Court recently ruled that the review board's role was unconstitutional.) In addition, the bill would increase the number of Presidentially appointed members of the Airports Authority's board of directors from 1 to 3. Under the current budgetary treatment of the Airports Authority, CBO estimates that enacting S. 288 would have no net impact on the federal budget.

The Metropolitan Washington Airports Authority is currently considered an independent body, and its financial transactions are not included in the federal budget. Therefore, the bill's changes would have no impact on the federal budget under current budgetary procedures. CBO estimates that enacting the bill would result in no cost to state or local governments. Because enactment of S. 288 would not affect direct spending or receipts, pay-as-you-go procedures would not apply to this bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John Patterson.

Sincerely,

JUNE E. O'NEILL, *Director.*

## REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

This legislation abolishes the MWAA Board of Review, which could save the MWAA from having to pay salaries for two staff persons. However, the MWAA would incur any reasonable expenses incidental to the addition of two new members of the Board of Directors. There is likely to be a net savings to the MWAA. The Committee anticipates no other economic impact.

The Committee does not expect this legislation to subject individuals or businesses to any additional regulation or paperwork. On the contrary, there will be a reduction in regulation and paperwork because the MWAA Board of Directors will no longer be required to report to the Board of Review.

This legislation has no impact on the personal privacy of individuals.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Abolition of Board of Review and related authority*

Section 1 abolishes the MWA Board of Review as it was reconstituted by the 1991 amendment to the 1986 Act. This section includes conforming amendments that alter the language of the 1986 Act to reflect the absence of the Board of Review. Finally, this section provides that any actions taken by the MWA and submitted to the Board of Review, before April 1, 1995, will remain in full effect regardless of any judicial order invalidating the Board of Review or its functions.

##### *Section 2. Sense of the Senate on parking*

Section 2 expresses the Sense of the Senate that the MWA should not continue to provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at either Washington National Airport or Washington Dulles International Airport. This section also urges the MWA to establish a parking policy that provides equal access to the public without preferential privileges for the persons mentioned above.

##### *Section 3. Conforming amendments in other law*

Section 3 repeals any reference to the Board of Review in any Federal law, Executive order, rule, regulation, or delegation of authority or to the provisions of law repealed under this bill.

##### *Section 4. Definitions*

Section 4 defines the terms "Airport Authority", "Washington National Airport", "Washington Dulles International Airport", and "Board of Review" for the purposes of this legislation.

##### *Section 5. Increase in number of Presidentially-appointed members of Board*

Section 5 amends the 1986 Act by changing the composition of the MWA Board of Directors. By this bill, the total number of directors increases from 11 to 13. The 1986 Act originally provided for a board comprised of five directors appointed by the Governor of Virginia, three appointed by the Mayor of the District of Columbia, two appointed by the Governor of Maryland, and one appointed by the President of the United States. This legislation adds two more directors appointed by the President. With the additional directors, the number of votes required to approve bond issues and the annual budget increases from seven to eight.

This section also provides for staggered terms of service for the three presidentially appointed directors so that terms of each expire at different times. The two new presidential appointees will serve for terms that expire two years and four years, respectively, after the end of the term of the current presidential appointee. If there is a vacancy in the existing presidentially appointed position at the time this bill is enacted, then the director appointed to fill that vacancy will serve for a term of two years.

*Section 6. Reconstituted Board to function without interruption*

Section 6 ensures that the Board of Directors will continue to fully function, as reconstituted, until any necessary conforming changes are made in relevant State law. This section allows the board to operate if Virginia, Maryland, or the District of Columbia needs to alter the interstate compact, given the changes in the composition of the board.

It is anticipated that the necessary changes to the laws of Virginia and the District of Columbia will be forthcoming to accommodate the two new presidentially-appointed members. In due course, the President's nominees will take their place on the board. The Board of Directors can continue to exercise its full powers during the interim period.

*Section 7. Status unaffected*

Section 7 provides that this bill shall not in any way affect the treatment of the MWAA under Federal, State, or local tax law.

*Section 8. Distribution of operational slots at National Airport*

Section 8 provides that nothing in this Act shall affect the number or distribution of operational slots under the High Density Rule (14 CFR 93.121 et seq.) at Washington National Airport.

ROLLCALL VOTES IN COMMITTEE

In accordance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following description of the record votes during its consideration of S. 288:

Senator Ashcroft offered an amendment to strike section 2 of the proposed amendment in the nature of a substitute, concerning the sense of the Senate. By rollcall vote of 7 yeas and 9 nays as follows, the amendment was defeated:

YEAS—7—	NAYS—9
Mr. Gorton—	Mr. Pressler
Mr. Lott <sup>1</sup> —	Mr. Stevens <sup>1</sup>
Mr. Ashcroft—	Mr. McCain
Mr. Hollings—	Mr. Burns <sup>1</sup>
Mr. Inouye <sup>1</sup> —	Ms. Snowe
Ms. Exon <sup>1</sup> —	Mr. Ford
Mr. Dorgan—	Mr. Rockefeller---
	Mr. Breaux---
	Mr. Bryan

<sup>1</sup> By proxy

Two amendments to the amendment in the nature of a substitute were offered and agreed to by voice vote. The first was an amendment by Senator Rockefeller to strike a provision that would have eliminated the perimeter rule at Washington National Airport. The second was an amendment by Senator Exon that ensures that nothing in the bill affects the number or distribution of operational slots under the High Density Rule, in effect at Washington National Airport.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

## TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

**SEC. 6001. SHORT TITLE.**

This title may be cited as the “Metropolitan Washington Airports Act of 1986”.

\* \* \* \* \*

**SEC. 6007. AIRPORTS AUTHORITY.**

(a) **POWERS CONFERRED BY VIRGINIA AND THE DISTRICT OF COLUMBIA.**—The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) **PURPOSE.**—The Airports Authority shall be—

(1) independent of the Commonwealth of Virginia and its local governments, the District of Columbia, and the Federal Government; and

(2) a political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports service the Metropolitan Washington area.

(c) **GENERAL AUTHORITIES.**—The Airports Authority shall be authorized—

(1) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) to issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority’s revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds of such bonds;

(3) to acquire real and personal property by purchases, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) to levy fees or other charges; and

(5) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this title.

(d) CONFLICT-OF-INTEREST PROVISIONS.—The Airports Authority shall be subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official appointing a member at the time the member is appointed, if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under section 6005(c)(8) of this title the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(e) BOARD OF DIRECTORS.—The Airports Authority shall be governed by a board of directors of ~~11 members,~~ *13 members*, as follows:

(A) five members shall be appointed by the Governor of Virginia;

(B) three members shall be appointed by the Mayor of the District of Columbia;

(C) two members shall be appointed by the Governor of Maryland; and

~~1 one member~~ *3 members* shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, except that the member appointed by the President shall not be required to reside in that area.

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) by the Governor of Maryland, 1 shall be appointed for 4 years.

(4) REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) REQUIRED NUMBER OF VOTES.—~~Seven~~ *Eight* votes shall be required to approve bond issues and the annual budget.

~~(f) BOARD OF REVIEW.—~~

~~(1) COMPOSITION.—~~The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority.

The Board of Review shall be established by the board of directors to represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the board of directors as follows:

[(A) 4 individuals from a list provided by the Speaker of the House of Representatives.

[(B) 4 individuals from a list provided by the President pro tempore of the Senate.

[(C) 1 individual chosen alternately from a list provided by the Speaker of the House of Representatives and from a list provided by the President pro tempore of the Senate. In addition to the recommendations on a list provided under this paragraph, the board of directors may request additional recommendations.

[(2) TERMS, VACANCIES, AND QUALIFICATIONS.—

[(A) TERMS.—Members of the Board of Review appointed under paragraphs (1)(A) and (1)(B) shall be appointed for terms of 6 years. Members of the Board of Review appointed under paragraph (1)(C) shall be appointed for terms of 2 years. A member may serve after the expiration of that member's term until a successor has taken office.

[(B) VACANCIES.—A vacancy in the Board of Review shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

[(C) QUALIFICATIONS.—Members of the Board of Review shall be individuals who have experience in aviation matters and in addressing the needs of airport users and who themselves are frequent users of the Metropolitan Washington Airports. A member of the Board of Review shall be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

[(D) EFFECT OF MORE THAN 4 VACANCIES.—At any time that the Board of Review established under this subsection has more than 4 vacancies and lists have been provided for appointments to fill such vacancies, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (4) to be submitted to the Board of Review.

[(3) PROCEDURES.—The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting and for the selection of a chairman. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) shall be by a vote of 5 members of the Board.

[(4) REVIEW PROCEDURE.—

(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60

days in the case of the annual budget) before it is to become effective.

(B) ACTIONS AFFECTED.—The following are the actions referred to in subparagraph (A):

[(i) the adoption of an annual budget and any amendments thereto;

[(ii) the authorization for the issuance of bonds and an annual plan for issuance of bonds and any amendments to such plan;

[(iii) the adoption, amendment, or repeal of a regulation;

[(iv) the adoption or revision of a master plan;

[(v) the appointment of the chief executive officer;

[(vi) the award of a contract (other than a contract in connection with the issuance or sale of bonds which is executed within 30 days of the date of issuance of the bonds) which has been approved by the board of directors of the Airports Authority;

[(vii) any action of the board of directors approving a terminal design or airport layout or modification of such design or layout; and

[(viii) the authorization for the acquisition or disposal of land and the grant of a long-term easement.

[(C) RECOMMENDATIONS.—The Board of Review may make to the board of directors recommendations regarding an action within either (i) 30 calendar days of its submission under this paragraph; or (ii) 10 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) of its submission under this paragraph; whichever period is longer. Such recommendations may include a recommendation that the action not take effect. If the Board of Review does not make a recommendation in the applicable review period under this subparagraph or if at any time in such review period the Board of Review decides that it will not make a recommendation on an action, the action may take effect.

[(D) EFFECT OF RECOMMENDATION.—

[(i) RESPONSE.—An action with respect to which the Board of Review has made a recommendation in accordance with subparagraph (C) may only take effect if the board of directors adopts such recommendation or if the board of directors has evaluated and responded, in writing, to the Board of Review with respect to such recommendation and transmits such action, evaluation, and response to Congress in accordance with clause (ii) and the 60-calendar day period described in clause (ii) expires.

[(ii) NONADOPTION OF RECOMMENDATION.—If the board of directors does not adopt a recommendation of the Board of Review regarding an action, the board of directors shall transmit to the Speaker of the House of Representatives and the President of the Senate a de-

tailed description of the action, the recommendation of the Board of Review regarding the action, and the evaluation and response of the board of directors to such recommendation, and the action may not take effect until the expiration of 60 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day on which the board of directors makes such transmission to the Speaker of the House of Representatives and the President of the Senate.

[(E) LIMITATION ON EXPENDITURES.—Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

[(5) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

[(A) IN GENERAL.—This paragraph is enacted by Congress—

[(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rule of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith; and

[(ii) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

[(B) RESOLUTION DEFINED.—For the purpose of this paragraph, the term “resolution” means only a joint resolution, relating to an action of the board of directors transmitted to Congress in accordance with paragraph (4)(D)(ii), the matter after the resolving clause of which is as follows: “That the Congress disapproves of the action of the board of directors of the Metropolitan Washington Airports Authority described as follows: .”, the blank space therein being appropriately filled. Such term does not include a resolution which specifies more than one action.

[(C) REFERRAL.—A resolution with respect to a board of director’s action shall be referred to the Committee on Public Works and Transportation of the House of Representatives, or the Committee on Commerce, Science and Transportation of the Senate, by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

[(D) MOTION TO DISCHARGE.—If the committee to which a resolution has been referred has not reported it at the

end of 20 calendar days after its introduction, it is in order to move to discharge the committee from further consideration of that joint resolution or any other resolution with respect to the board of directors action which has been referred to the committee.

[(E) RULES WITH RESPECT TO MOTION.—A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Motions to postpone shall be decided without debate.

[(F) EFFECT OF MOTION.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

[(G) SENATE PROCEDURE.—

[(i) MOTION TO PROCEED.—When the committee of the Senate has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

[(ii) LIMITATION ON DEBATE.—Debate in the Senate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

[(iii) NO DEBATE ON CERTAIN MOTIONS.—In the Senate, motions to postpone made with respect to the consideration of a resolution and motions to proceed to the consideration of other business shall be decided without debate.

[(iv) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution shall be decided without debate.

[(H) EFFECT OF ADOPTION OF RESOLUTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other

House a joint resolution, then the following procedures shall apply:

[(i)] The joint resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it, except in the case of final passage as provided in clause (ii)(I).

[(ii)] With respect to a joint resolution described in clause (i) of the House receiving the joint resolution—

[(I)] the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

[(II)] the vote on final passage shall be on the joint resolution of the other House.

Upon disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution that originated in the receiving House.

[(6)] REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

[(7)] PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

[(8)] STAFF.—The Board of Review may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

[(9)] LIABILITY.—A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

[(10)] CONFLICTS OF INTEREST.—In every contract or agreement to be made or entered into, or accepted by or on behalf of the Airports Authority, there shall be inserted an express condition that no member of a Board of Review shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

[(11)] REMOVAL.—A member of the Board of Review shall be subject to removal only for cause by a two-thirds vote of the board of directors.]

[(g)] (f) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

[(h)] LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority thereafter shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review.]

[(i)] (g) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to deter-

mine whether such contracts were awarded by procedures which follow sound Government contracting principles and are in compliance with section 6005(c)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

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**SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.**

(a) **OTHER LAWS.**—In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal Law as any other airport except as otherwise provided in this title, during the period that the lease authorized by section 6005 of this title is in effect—

(1) the Metropolitan Washington Airports shall be considered public airports for purposes of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201 et seq.); and

(2) the Acts entitled “An Act to provide for the administration of the Washington National Airport, and for other purposes”, approved June 29, 1940 (54 Stat. 686), “An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia”, approved September 7, 1950 (64 Stat. 770), and “An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes”, approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) **INAPPLICABILITY OF CERTAIN LAWS.**—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of the fee simple title to such airports [or by reason of the authority of the Board of Review under subsection 6007(f)].

(c) **POLICE POWER.**—The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d) **PLANNING.**—

(1) **IN GENERAL.**—The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d) shall not apply to the Airports Authority.

(2) **CONSULTATION.**—The Airports Authority shall consult—

(A) with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport, and

(B) with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

## (e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—The Administrator may not increase the number of instrument flight rule takeoffs and landings authorized for air carriers by the High Density Rule (14 C.F.R. 93.212 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) ANNUAL PASSENGER LIMITATIONS.—The Federal Aviation Administration air traffic regulation entitled “Modification of Allocation: Washington National Airport” (14 C.F.R. 93.124) shall cease to be in effect on the date of the enactment of this title.

**SEC. 6010. AUTHORITY TO NEGOTIATE EXTENSION OF LEASE.**

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under section 6005(a).

**SEC. 6011. SEPARABILITY.**

**[Except as provided in section 6007(h), if]** *If* any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

#### ADDITIONAL VIEWS OF MR. McCAIN

While the legislation approved by the Committee varies greatly from the original version, S.288, as introduced by my colleagues, Senator John Warner, Senator Chuck Robb and myself, I'm glad we're taking steps to abolish the Board of Review in compliance with the judgement of the U.S. Supreme Court.

I introduced legislation on National and Dulles Airports which sought to abolish several of the most egregious examples of Congressional interference in the highly competitive, deregulated airline industry. The legislation, which I introduced with Senator John Warner and Senator Chuck Robb would abolish the Metropolitan Washington Airports Authority (MWAA) Board of Review; eliminate the Perimeter Rule at National Airport (this law imposes a 1,250 mile limitation on air travellers beyond which no non-stop flight between National and another airport is allowed); and eliminate reserved parking spaces for Members of Congress and other top government officials.

I am particularly concerned about the Perimeter Rule, which flies in the face of the 1978 legislation authorizing airline deregulation. The Perimeter Rule is found in section 6012 of the Metropolitan Washington Airports Act of 1986. It prohibits nonstop flights between Washington National Airport and cities more than 1,250 miles apart. The Perimeter Rule was originally devised in the 1960s to limit congestion at National Airport by limiting nonstop flights to and from points within 650 miles and seven "grandfather cities" that were already receiving service.

In the early 1980s, the Federal Aviation Administration adopted the Perimeter Rule, but limited flights to within 1,000 miles. In 1986, the Perimeter Rule was included in the Metropolitan Washington Airports Act, but the limit was set at 1,250 miles. In addition, non-stop service was allowed to both Dallas/Ft. Worth and Houston in a compromise orchestrated by Representative Jim Wright from Texas. This new Perimeter Rule was also supposed to make Dulles Airport a successful air transportation hub for longer-range air traffic, because it would not have to compete with Washington National Airport.

An artificial barrier such as the Perimeter Rule is at odds with the fundamental principles of airline deregulation. The guiding principles of the 1978 Deregulation Act were that the marketplace would decide demand. A legislatively imposed perimeter rule is yet another example of wrongful Congressional interference in the marketplace.

It is anti-competitive and has no place in a deregulated industry. Lifting the Perimeter Rule would increase competition and allow the free market to work by removing artificial barriers to competition.

For those who are concerned about noise increasing due to larger aircraft at National, I want to make it clear that the larger aircraft that would serve National to more distant points are, according to the engineers at Boeing and McDonnell Douglas, the quietest aircraft in its class and meet or exceed all Stage 3 noise requirements set by the FAA. In fact, the data provided by the aircraft manufacturers and aviation experts indicates that these larger planes are substantially quieter than older 727 and 737 aircraft with low bypass engines that would serve shorter routes within the current perimeter restrictions.

Legislation on National and Dulles airports must be passed which will abolish unnecessary perks and end nearly ten years of unconstitutional congressional review and oversight. National and Dulles Airports are not Congressional airports, nor should they be. On November 8, 1994, Americans voted for change. As their duly elected officials we should be obliged to answer their call to this higher standard, and not repeat the mistakes of our predecessors.

